

## **REMARKS**

The pending Office Action addresses claims 1 and 3-19, rejecting all claims.

The undersigned attorney for Applicants thanks Examiner Araj for extending the courtesy of a telephone interview on February 1, 2007. During the interview, Applicants suggested the amendment made herein to claim 1 to clarify the claim. The Examiner agreed that this amendment would overcome the art of record.

### ***Claim Amendments***

Claim 1 is amended to clarify that the aperture in the rod member is “an aperture extending therethrough for passage of a trocar sleeve assembly.” No new matter is added.

### ***Claim Rejections under 35 U.S.C. § 102***

Claims 1, 3, 7-13, and 15-19 are rejected pursuant to 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,688,284 of Chervitz et al.

Claim 1 recites an adjustable drill guide assembly for forming a transverse bore through a bone tunnel of a bone. The assembly includes a guide frame including an arm portion and a base portion that extends transversely to the arm portion, and a rod member for connection to the base portion. The rod member extends transversely to the base portion and parallel to the arm portion when connected to the base portion, and has an elongated stem portion for extending into the bone tunnel of the bone. Further, an aperture for passage of a trocar sleeve assembly extends through the rod member. The assembly also includes a guide member configured for connection to the arm portion. The guide member includes a channel extending therethrough at an angle normal to a longitudinal axis of the arm portion when the guide member is connected to the arm portion. The guide member is configured to be selectively moveable and lockable along a length of the arm portion. The arm portion includes indicia representing the relative height of the channel with respect to the bone tunnel when the elongated stem portion is inserted inside the bone tunnel.

As the Examiner has acknowledged, Chervitz does not teach all the features of claim 1. Specifically, Chervitz fails to disclose an aperture extending through a rod member. Since the target depression (12) is not an aperture that extends through a rod, the claims distinguish over Chervitz.

Accordingly, Chervitz does not teach all the features of claim 1, and claim 1 and claims 3 and 7-10, which depend therefrom, distinguish over Chervitz.

Independent claim 11 is similar to claim 1, except that claim 11 is a method claim and requires the use of an elongated stem portion having an aperture therethrough. As stated above with regard to claim 1, the elongate stem portion (rod 11) of Chervitz lacks any aperture formed therethrough. Thus, claim 11, as well as claims 12, 13, and 15-19 which depend therefrom, likewise distinguishes over Chervitz.

#### ***Claim Rejections under 35 U.S.C. § 103***

Claim 14 is rejected pursuant to 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,688,284 of Chervitz et al.

Claim 14 depends from claim 11, and thus includes all of its features. Claim 11 recites a rod member with an elongated stem portion having an aperture therethrough. As stated above, Chervitz does not teach or suggest a rod member having an aperture therethrough. Therefore, claim 14 is allowable at least because it depends from claim 11.

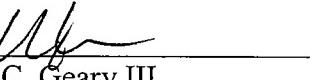
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***Conclusion***

In view of the above, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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